

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DON HARGROVE**, on February 16, 2001 at 10:00 A.M., in Room 335 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Don Hargrove, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Edward Butcher (R)  
Sen. Pete Ekegren (R)  
Sen. Jim Elliott (D)  
Sen. Eve Franklin (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Fred Thomas (R)

**Members Absent:** None.

**Staff Present:** Lynette Brown, Committee Secretary  
David Niss, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SJ 12, SB 473, 2/5/2001  
Executive Action: SB 362, HJ 4, HB 311, SB 443

#### **HEARING ON SJ 12**

**Sponsor:** SEN. TOM BECK, SD 28, Deer Lodge

**Proponents:** Bill Bayless, Administrative General Services  
Division  
Arnold Olsen, Montana Historical Society

**Opponents:** None

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Opening Statement by Sponsor:

**SEN. TOM BECK, SD 28, DEER LODGE** told the committee said this resolution would attempt to establish reasonability as to where to place statues, busts, monuments, and art displays around the capitol and capitol complex grounds.

Proponents' Testimony:

**Bill Bayless, Administrative General Services Division**, said his division provided support to the Capitol Complex Advisory Counsel. His division presented a list of items in storage to the Capitol Complex Advisory Counsel. **Bill Bayless** said it had been decided to wait until the capitol remodeling project was finished before determining where to place the items that were in storage. He added that to begin, they developed a short list of items that had a definite place where they belonged. Following the placement of the items on the short list, they would continue to review the remaining items, gradually adding items to be placed on the list. **Mr. Bayless** said the consideration had been made to possibly begin limiting the number of items for permanent display in the capital allowing the flexibility to create a more semi-permanent or temporary display; this would allow for rotating displays. He added the purpose for this resolution was to allow for a limited number of permanent displays with the rest of the items being available on a rotating basis.

**Arnold Olsen, Montana Historical Society,**  
**EXHIBIT (sts39a01)** supported this resolution.

Opponents' Testimony: None

**EXHIBIT (sts39a02)** A letter from **Frank Adams**, Clancy, Montana was distributed which opposed the removal of the Fred Whiteside Plaque from the capital.

Questions from Committee Members and Responses:

**SEN. JOHN BOHLINGER** told **Arnold Olson** that he liked the idea of rotating the items for display and wondered if they had considered using the walls of the capital as a gallery to display the items. **Arnold Olson** replied that they would be considering that as an option, but that they would need to look into the issue of security more closely if that was done. He added that a curator of art might be needed if this was done.

**SEN. JIM ELLIOTT** asked **Susan Near, Montana Historical Society**, about Exhibit #2 which objected to the removal of the Fred Whiteside Plaque from the capitol. **Susan Near** replied that their intent was to first put back the larger, major pieces. She told the committee that research had begun about any legislation to be determined in relation to any of the pieces to see if there were stipulations attached to items as far as placement location and permanency. **Susan Near** added that this research would take some time to complete.

**SEN. ELLIOTT** asked **Susan Near** who made the decisions concerning what pieces would go on permanent display and what pieces would go on a rotating display. **Susan Near** answered that the Capitol Advisor Council was in charge of making those decisions.

**SEN. ELLIOTT** asked **Bill Bayless** who the members of that board were. **Bill Bayless** answered that the members of that council were members of the public as well as members of the legislature.

**SEN. Don Hargrove** asked **Bill Bayless** if the council was prohibited from moving artwork and items around during the interim time. **Bill Bayless** responded that an item was considered temporary unless approved as a permanent display by the legislature.

**Closing by Sponsor:**

**SEN. TOM BECK, SD 28**, closed SJ 12 by telling the committee this would afford the committee some direction to follow concerning these items.

**EXECUTIVE ACTION ON SB 362**

**Motion:** **SEN. FRANKLIN** moved that **SB 362 DO PASS**.

**Discussion:**

**SEN. EVE FRANKLIN** told the committee that it was appropriate to use their "power" to help a constituent, but in the case of personal threat, it was inappropriate.

**SEN. KEN TOOLE** said he supported the bill and continued to be concerned about bills that come through to shape up public officials.

**Vote:** Motion that **SB 362 DO PASS** carried unanimously.

**EXECUTIVE ACTION ON HJ 4**

**Motion/Vote:** SEN. HARGROVE moved that HJ 4 BE ADOPTED. Motion carried unanimously.

**HEARING ON SB 473**

**Sponsor:** SEN. MIGNON WATERMAN, SD 26, Helena

**Proponents:** Gene Haire, Board of Visitors  
Jeff Folsom, representing himself

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. MIGNON WATERMAN, SD 26, Helena, stated this bill made revisions to the statutes concerning the Board of Visitors, expanding the board from five to six members, defined who the members were, and sets staggered terms for two years. This bill would also require the facilities to respond to the Board of Visitors recommendations. SEN. WATERMAN said this would prohibit abuse and neglect of people in mental health facilities.

**Proponents' Testimony:**

Gene Haire, Board of Visitors, expressed support for this bill.

Jeff Folsom, representing himself, told the committee it was important to have a strong oversight of the mental health system. This bill would provide the structure for the that, he said.

Jeff Folsom said this bill would require more resources. He would like an amendment on Section 1 which described the powers of the board.

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**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

SEN. FRANKLIN asked Gene Haire to explain the change in the role of the Board of Visitors. Gene Haire answered that the current law required every mental health facility to be inspected annually by the Board of Visitors, whereas this bill would still

require the inspections of the facilities, but not necessarily annually. He told the committee that this bill would establish the expectations of the Board of Visitors and would also establish priority in review. **Gene Haire** said this bill would require the facilities to respond to the Board of Visitors and to describe how they would go about facilitating the recommended changes.

**SEN. BOHLINGER** asked **Gene Haire** to tell the committee the location of these facilities and how many people presently received care from those facilities. **Gene Haire** answered that the definition included all of the community mental health center programs, and two state facilities. He added that the total number of people who received services from the community mental health centers would be approximately 6,000, reminding the committee that included all of the residential treatment programs also. **Gene Haire** said there were probably close to 10,000 total people served by mental health facilities throughout the state.

**SEN. BOHLINGER** asked **Gene Haire** what they did when performing site reviews. **Gene Haire** responded that the facility was given a month's notice before the site review. During the site review, the Board of Visitors would interview a variety of people, such as family members, agencies involved, such as pharmacists and physicians, about key issues. **Gene Haire** said they paid close attention to treatment planning and special treatment procedures.

**SEN. BOHLINGER** asked **Gene Haire** how often the person receiving the treatment was included in discussions. **Gene Haire** answered in adult facilities, they place a very high priority on interviewing the person receiving the treatment which provided them with valuable feed-back.

**SEN. ELLIOTT** asked **Gene Haire** if the permanent custodial care facilities were evaluated any differently than the other sites. **Gene Haire** replied that most of the people who were at the Montana State hospital had a diagnosis of either schizophrenia, bi-polar disorder, major depression, or serious personality disorder. Many of those people also had a chemical dependency problem. **Gene Haire** added that people at the facility at Lewistown diagnostically had similar profiles, with most of the people being elderly and, therefore, had some problems with dementia also. He added that since Lewistown was mostly custodial care, they routinely reviewed what the administrators and others list as the status, and the number of people who were under their care. **Gene Haire** stated that they paid closer attention to their care because those consumers were less able to communicate with the Board of Visitors.

**SEN. ELLIOTT** asked **Gene Haire** about developmental disabilities. **Gene Haire** responded that the Board of Visitors had a responsibility to do oversight at the two state residential facilities at Boulder and Glendive. He added that there were more people in those facilities who either the family or the state had a custodial responsibility at Glendive, with there being more of a mix at Glendive.

**SEN. ELLIOTT** asked **Gene Haire** what types of developmental disabilities were in those facilities. **Gene Haire** answered that less than 10% were Down Syndrome with the rest of the developmental disabilities caused from a large variety of reasons.

**SEN. FRANKLIN** asked **Gene Haire** what they do presently if they suspected abuse. **Gene Haire** answered that each facility had an internal policy in place. **Mr. Haire** said the Board of Visitors was very much involved in reviewing the processes for this and rely on the facilities to notify them if there was any suspected abuse.

**SEN. FRANKLIN** asked **Gene Haire** about medications against the wishes of the patient. **Gene Haire** answered that section was simply put in the bill to be grammatically correct and it did not change anything procedures already in place.

**SEN. FRANKLIN** asked **Gene Haire** if longer than 30 days should be allowed for a written report to be completed. **Gene Haire** said their intent was to put a time frame in place.

**SEN. HARGROVE** asked **Gene Haire** how often facilities failed to comply. **Gene Haire** answered the almost all facilities complied.

**SEN. HARGROVE** asked **Gene Haire** if they ever go to court. **Gene Haire** answered the strongly prefer not to go to court. He added that they pursue every other option first.

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Closing by Sponsor:

**SEN. MIGNON WATERMAN, SD 26, Helena** closed SB 473.

**EXECUTIVE ACTION ON HB 311**

**Motion:** **SEN. FRANKLIN** moved that **HB 311 BE CONCURRED IN.**

**Motion:** SEN. FRANKLIN moved that **AMENDMENT HB031101.ADN BE ADOPTED.**

**Discussion:**

**SEN. EKEGREN** said he wanted a minor child being listed as being under 18 years of age.

**SEN. ELLIOTT** objected to amendments 2 and 5 because in some cases, it could be beneficial for a person to remain on the property. He, therefore, wanted amendments 2 and 5 removed.

**SEN. FRANKLIN** agreed with **SEN. ELLIOTT**. She said if they made a bad decision, we would still assist them.

**SEN. TOOLE** said he resisted this bill. He added that if someone stayed and was hurt, yes, we would treat them, but should not have to pay for damage to property. **SEN. TOOLE** said if the person put themselves in harm's way, they they should assume full responsibility.

**SEN. EKEGREN** told the committee that the person had assumed the risk of injury when they chose to stay on the property.

**SEN. FRANKLIN** added that someone that lost all property could be eligible for certain governmental funds or financial assistance.

**SEN. EKEGREN** said they were dealing with the person, not the property.

**SEN. ELLIOTT** said the incidence of people threatening with a gun was punishable. He added that the attachment of a person to their home in the country was phenomenal because it was not only their home, it was their dream as well. **SEN. ELLIOTT** said that the homeowners felt that nobody would protect the place as determinedly as they would. He added that people should not be punished for making that decision.

**SEN. HARGROVE** asked if amendment Section 5 should be segregated to put in, "person".

**SEN. TOOLE** asked if there was an evacuation order and the person chose to stay and that person died as a result of that decision, could the family sue the state.

**SEN. ELLIOTT** told the committee that if a person refused an order to leave their property, they should have to sign off saying that they received the evacuation and had refused the order.

**David Niss, legislative services**, stated that it depended on the nature of the action and the basis for it. Any liability would probably arise out of a variety of other issues other than the individual choosing to stay there.

**SEN. HARGROVE** asked if amendment Section 5 could be changed to make sure the state would not assume any liability.

**David Niss** stated that was an entirely different issue than what the amendment was, involving constitutional ramifications because of the requirements for waiver of governmental liability.

**SEN. BUTCHER** asked if they could include ademption.

**David Niss** replied that was a form of immunity for the state which would require 2/3 vote of the legislature.

**Motion/Vote:** **SEN. HARGROVE** moved that **SEGREGATE SECTION 5 FROM AMENDMENT HB031101.ADN EXHIBIT(sts39a03) BE ADOPTED. Motion carried unanimously.**

**Motion/Vote:** **SEN. ELLIOTT** moved that **SECTIONS 3 AND 4 OF AMENDMENT HB031101.ADN BE ADOPTED. Motion carried 7-0.**

**Discussion:**

**SEN. BOHLINGER** expressed concern for the wife of the person who chose to stay.

**SEN. BUTCHER** said in regards to a person choosing to stay on their property, sometimes the state people don't have a grasp of the situation either.

**SEN. TOOLE** said that those in charge of organizing evacuations are charged with protecting the public safety.

**SEN. HARGROVE** added that the wife was an adult and could therefore make her own decision.

**SEN. HARGROVE** asked if they were talking about liability or that the state could not do anything to help the person who stayed in Section 5.

**SEN. TOOLE** said if someone wanted to assume those risks, they should assume the risks to include themselves as well as the property.



**SEN. HARGROVE** said he was making an assumption that they had given up on the property so the property section in the amendment should be removed.

**Motion/Vote:** **SEN. ELLIOTT** moved **SECTIONS 2 AND 5 OF AMENDMENT HB031101.ADN** BE REJECTED. Motion carried 7-0.

**Motion/Vote:** **SEN. ELLIOTT** moved that **HB 311 BE CONCURRED IN AS AMENDED**. Motion failed 7-1 with Toole voting aye.

**EXECUTIVE ACTION ON SB 443**

**Motion:** **SEN. BUTCHER** moved that **SB 443 DO PASS**.

**Motion:** **SEN. BUTCHER** moved that **AMENDMENT SB044301.ADN EXHIBIT (sts39a04)** BE ADOPTED.

**Discussion:**

**SEN. BUTCHER** explained **amendment SB044301.adn** by telling the committee that after the document was 50 years old, the statute of privacy was gone.

**Vote:** Motion that **AMENDMENT SB044301.ADN BE ADOPTED** carried 7-0.

**Motion/Vote:** **SEN. BUTCHER** moved that **SB 443 DO PASS AS AMENDED**. Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 11:35 A.M.

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SEN. DON HARGROVE, Chairman

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LYNETTE BROWN, Secretary

DH/LB

**EXHIBIT (sts39aad)**